

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

JOHN CHRISTIAN SMITH

v.

**JPMORGAN CHASE BANK, N.A. and
ROUND GROVE PROPERTIES, LLC**

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Civil Action No. 3:18-cv-02709

NOTICE OF REMOVAL

JPMorgan Chase Bank, N.A. (**Chase**) removes the action John Christian Smith filed in the 134th District Court of Dallas County, Texas to the United States District Court for the Northern District of Texas under 28 U.S.C. §§ 1331 and 1441.

I. STATEMENT OF THE CASE

Mr. Smith contends Chase violated the Real Estate Settlement Procedures Act, 12 U.S.C. § 2601, *et seq.* (**RESPA**) when it failed to respond adequately to his loss mitigation application and instead posted the property for a foreclosure sale. He asserts state law claims against Chase on the same loss mitigation allegations as well as allegations Chase did not send him a notice of default before posting the property for sale. This court has federal question jurisdiction over Mr. Smith's RESPA claim and supplemental jurisdiction over his state law claims.

II. FEDERAL QUESTION JURISDICTION

This court has federal question jurisdiction under 28 U.S.C. § 1331 because Mr. Smith asserts violations of federal law. Under the "well-pleaded complaint rule," federal courts have jurisdiction "when a federal question is presented on the face of the plaintiff's properly pleaded complaint." *Caterpillar Inc. v. Williams*, 482 U.S. 386, 392 (1987). Mr. Smith presents a federal question by its claim Chase violated 12 C.F.R. § 1024.41 when it posted the property for a foreclosure sale before responding to his loss mitigation application. (Ex. 1, pet., at 10-11 ¶¶ 46-

51.) This court has supplemental jurisdiction over Mr. Smith's remaining state law claims because "form part of the same case or controversy." 28 U.S.C. § 1367(a).

III. THE PROCEDURAL REQUIREMENTS HAVE BEEN SATISFIED

Removal is timely under 28 U.S.C. § 1446(b) because Mr. Smith filed suit on October 2, 2018, and there is no indication he served Chase as of the removal date. (*See* Ex. 6, docket.) Because Mr. Smith has not served Round Grove Properties, LLC, Chase does not need its consent to remove. 28 U.S.C. § 1446(b)(2)(A) (requiring consent of all "properly joined and served" defendants.) (*See id.*)

Chase sends notice to the state court of its removal. Pursuant to 28 USC § 1446(a), Chase attaches a true and correct copy of all of the process, pleadings, and orders on file in the state court action as **Exhibits 1-5**.

IV. CONCLUSION

This court may exercise federal question jurisdiction because Mr. Smith asserts claims arising under federal law.

Date: October 12, 2018

Respectfully submitted,

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**ATTORNEYS FOR DEFENDANT
JPMORGAN CHASE BANK, N.A.**

CERTIFICATE OF SERVICE

I hereby certify on October 12, 2018 a true and correct copy of the foregoing instrument was served as follows:

VIA CM/ECF
AND CERTIFIED MAIL/RRR
No. 9414 7266 9904 2124 3156 52

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